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7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF BEHAVIORAL SCIENCES**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation  
Against:

Case No. LC-2008-1310

12 ELAINE D. BERNARD  
13 695 Heritage Ave.  
Clovis, CA 93619

**FIRST AMENDED ACCUSATION**

14 Licensed Clinical Social Worker License No.  
15 LCS 16036

Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Paul Riches (Complainant) brings this First Amended Accusation solely in  
20 his official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of  
21 Consumer Affairs.

22 2. On or about February 13, 1992, the Board of Behavioral Sciences issued  
23 Licensed Clinical Social Worker License Number LCS 16036 to Elaine D. Bernard  
24 (Respondent). The Licensed Clinical Social Worker License was in full force and effect at all  
25 times relevant to the charges brought herein and will expire on October 31, 2009, if not renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Board of Behavioral Sciences (Board), Department of Consumer Affairs, under the authority of the following laws.

All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4996.11 of the Code states that "[t]he board may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 4992.3. The proceedings for the suspension or revocation of licenses under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter."

5. Section 4992.3 of the Code states:

"The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

"(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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1           6.       California Code of Regulations, title 16, section 1881 states:

2           "The board may suspend or revoke the license of a licensee or may refuse to issue  
3 a license to a person who:

4           "(e) Commits any dishonest, corrupt, or fraudulent act which is substantially  
5 related to the qualifications, functions or duties of a licensee.

6           7.       Section 118, subdivision (b), of the Code provides that the expiration of a  
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
8 period within which the license may be renewed, restored, reissued or reinstated.

9           8.       Section 125.3 of the Code provides, in pertinent part, that the Board may  
10 request the administrative law judge to direct a licensee found to have committed a violation or  
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
12 and enforcement of the case.

13                               FIRST CAUSE FOR DISCIPLINE

14                               (Conviction for Theft)

15           9.       Respondent is subject to disciplinary action under sections 4992.3(a) and  
16 4996.11, as well as California Code of Regulations, title 16, section 1881(e) in that on or about  
17 August 4, 2008, in the criminal proceeding titled *People v. Bernard* (Super. Ct. County of  
18 Fresno, 2005, Case No. F05904742-4); Respondent was convicted on a plea of no contest to  
19 violating Penal Code section 487(a) (grand theft - a felony), with an enhancement under Penal  
20 Code section 12022.6(a)(2) for having taken property exceeding \$150,000.00, crimes  
21 substantially related to the qualifications, functions, and duties of a licensed clinical social  
22 worker. The facts and circumstances are that from January 1, 1996 through January 31, 2002,  
23 Respondent embezzled money exceeding \$150,000.00 in value from the Genesis Family Center,  
24 a non-profit organization created to provide services to abused and neglected children.

25                               SECOND CAUSE FOR DISCIPLINE

26                               (Conviction for Tax Evasion)

27           10.       Respondent is subject to disciplinary action under sections 4992.3(a) and  
28 4996.11, as well as California Code of Regulations, title 16, section 1881(e) in that on or about

1 August 4, 2008, in the criminal proceeding titled *People v. Bernard* (Super. Ct. County of  
2 Fresno, 2005, Case No. F05904742-4), Respondent was convicted on a plea of no contest to  
3 violating Revenue and Taxation Code section 19706 (tax evasion) for having intentionally made  
4 a fraudulent California Personal Income Tax Return for the calender year of 1998.

5 THIRD CAUSE FOR DISCIPLINE

6 (Conviction for Driving Under the Influence)

7 Respondent is subject to disciplinary action under sections 4992.3(a) and  
8 4996.11 in that on or about May 6, 2009, in the criminal proceeding titled *People v. Bernard*  
9 (Super. Ct. County of Fresno, 2006, Case No. M06918650), Respondent was convicted on a plea  
10 of no contest to violating Vehicle Code section 23152(b) (driving with .08% or higher blood  
11 alcohol) for having driven on July 25, 2006 with a .14% blood alcohol count.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
14 alleged, and that following the hearing, the Board of Behavioral Sciences issue a decision:

15 1. Revoking or suspending Licensed Clinical Social Worker License Number  
16 LCS 16036, issued to Elaine D. Bernard.

17 2. Ordering Elaine D. Bernard to pay the Board of Behavioral Sciences the  
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
19 Professions Code section 125.3;

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1                    3.     Taking such other and further action as deemed necessary and proper.

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3     DATED: June 25, 2009

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6                    PAUL RICHES  
7                    Executive Officer  
8                    Board of Behavioral Sciences  
9                    Department of Consumer Affairs  
10                    State of California  
11                    Complainant

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